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| 10/782,236 | 02/19/2004 | Maria Rene Ebling | YOR920040005US1 | 5240 |
| 7590 Ryan, Mason & Lewis, LLP 90 Forest Avenue Locust Valley, NY 11560 | | | | |
| 11/25/2008 | | | | |
| EXAMINER | | | | |
| REFAI, RAMSEY | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/782,236

Applicant(s)

EBLING ET AL.

Examiner

Ramsey Refai

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Response to Amendment

Responsive to amendment received August 8, 2008. Claim 25 has been amended.

Claims 26-27 have been canceled. Claim 25 remains pending.

Response to Arguments

1. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the features of claim 25, including all newly amended features, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

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the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 25 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Newly amended claim 25 includes limitations which appear to be new matter. The claim includes limitations directed to "wherein the location and time information comprises a location, a time at location, a proximity to a location, a proximity to a person, a proximity to a device, a proximity to a person satisfying a condition, a proximity to a location during a specified time interval, an application invocation, a duration of an application invocation, a duration of an application focus on a particular subject, an application invocation during a specified time interval, a user input, a duration of a user input session, a proximity to multiple persons and a location, a calendar, a work assignment, and a workflow stage". The specification fails to provide proper support for the location and time comprising a location, a time at location, a proximity to a location, a proximity to a person, a proximity to a device, a proximity to a person satisfying a condition, a proximity to a location during a specified time interval, an application invocation, a duration of an application invocation, a duration of an application focus on a particular subject, an application invocation during a specified

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time interval, a user input, a duration of a user input session, a proximity to multiple persons and a location, a calendar, a work assignment, and a workflow stage. From canceled claim 26, these features appear to be features relating to *context data* and not location and time information. With reference to context data, there appears to be no support in the specification for the requirement of all of various types of context data when implementing the claimed method.

Additionally, the limitation *"wherein context data is capable of being automatically collected by the computer system from a calendar, a global positioning system, user entry, a video, a sensor associated with a person, a sensor not associated with a person, and a proximity to a wireless access point"* appears to be unsupported since the specification does not require all of the sources of the context data but only one as originally filed (see page 13).

Furthermore, the limitation *"wherein the computer system maintains a mapping of physical location information collected as part of the context data in the form of specific coordinates to logical location information in the form of room numbers and room functions such that location information entered by the user is more easily reconciled by the computer system"* appears to be unsupported since the specification does not require the logical information in the form of both room numbers and room function but rather one or the other (see page 8).

Claim 25 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification fails to show how the method can automatically collect context data from a computer program, a file transfer, a batch mode, a communications network, a

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communications-enabled device, and a polling mechanism at once. The specification appears to only require one source of context data when performing the claimed method and does not show how context data can be obtained from multiple sources that are different in function and capability.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claim 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barhnart et al (US Patent No. 7,110,955) in view of "Official Notice".

8. As per claim 25, Barhnart et al teach an automated method of validating one or more medical-based expenses based on context data obtained during performance of

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one or more medical-based tasks, comprising a computer system performing the steps of:

automatically collecting context data at the computer system in the form of location and time information for at least one user, such that the user is a physician, a nurse, or a medical administrator performing one or more medical-based tasks (**fig 3, column 5, line 56-column 6, line 6; patient data such as name, location, and date are loaded from hospital computer system into device**) and further wherein the location and time information accurately correspond to the performance of the one or more medical-based tasks by the physician (**column 2, lines 63-64**), the nurse, or the medical administrator (**location corresponds to patient location where doctor visit will occur, see column 6, lines 12-17, column 12, lines 60-64**); further wherein the location and time information comprises a location, a time at location, a proximity to a location, a proximity to a person, a proximity to a device, a proximity to a person satisfying a condition, a proximity to a location during a specified time interval, an application invocation, a duration of an application invocation, a duration of an application focus on a particular subject, an application invocation during a specified time interval, a user input, a duration of a user input session, a proximity to multiple persons and a location, a calendar, a work assignment, and a workflow stage (**figs 7A, 7C; billing code, date and location; it is noted that the different types of information are taken as non-functional language since the various types of information fail to provide separate functions in the method and are just stored data**).

receiving a subsequent entry by the user at the computer system of a medical-based expense incurred while performing at least one of the one or more of medical-based tasks (**column 13, lines 26-28; billing code**); wherein the user entry comprises a

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an inputted location and a time associated with the performance of the medical-based expense **(column 7, lines 25-42, figs 5D, 7A, 7C, 10A; physician can edit patient data such as location and include a data stamp)**

automatically reconciling any errors between the inputted location and time information entered by the physician, the nurse, or the medical administrator and the context data previously automatically collected in the form of accurate location and time information **(Fig 14, column 13, lines 36-65; after examining patient, data in server is synchronized with data in the device, including updating any changes in patient data); and**

wherein context data is capable of being automatically collected by the computer system from a calendar, a global positioning system, user entry, a video, a sensor associated with a person, a sensor not associated with a person, and a proximity to a wireless access point **(column 6, lines 43-55; user entry);** wherein context data is capable of being automatically collected through a computer program, a file transfer, a batch mode, a communications network, a communications-enabled device, and a polling mechanism **(column 5, lines 58-62; file transfer).**

wherein the computer system maintains a mapping of physical location information collected as part of the context data in the form of specific coordinates to logical location information in the form of room numbers and room functions such that location information entered by the user is more easily reconciled by the computer system **(column 12, line 60-column 13, line 8, figs 3, 7C, 13; location information in the form of room information is maintained for each patient).**

Barhnart et al fail to teach providing an indication of the reconciliation such that a resulting medical-based expense recorded in the computer system is accurate.

However, it would have been obvious to one of ordinary skill in the art at the time of the

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Applicant's invention to include this feature in Barhnart et al because doing so would provide a notification to the physician that billing information has been accurately and successfully synchronized with the data on the server in order to ensure that medical billing has been properly recorded.

Barhnart et al also fail to explicitly teach *reconciling any errors comprises prompting the user to re-enter data, correcting one or more errors based on a policy, and alerting one or more entities that the user entry is faulty*. However, "Official Notice" is taken that the concept and advantage of this feature is well known in the art as evidenced by Mersky et al (US 6,119,106, see column 8, lines 4-26). It would have been obvious to one of ordinary skill in the art to include this feature in Barhnart et al because doing so would allow a user to re-enter the data if the data has been entered incorrectly.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramsey Refai whose telephone number is (571) 272-3975. The examiner can normally be reached on M-F 8:30 - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on (571) 272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ramsey Refai
November 19, 2008
/R. R./
Examiner, Art Unit 3627

/F. Ryan Zeender/
Supervisory Patent Examiner, Art Unit 3627